

### REMARKS

The Office Action dated December 23, 2003, has been reviewed in detail along with all references made of record. Reconsideration of the claims of the instant application is respectfully requested in view of the following remarks.

Applicant would like to extend its appreciation to the Examiner for the time and attention accorded this case. As will be set forth in detail herebelow, the issues raised by the Office in the outstanding Office Action, when reconsidered in light of the foregoing amendments and the following comments, should be resolved in Applicant's favor.

Claims 1-7 and 12-36 were on file as of the mailing date of the outstanding Office Action. Claims 1, 3, 4, 5, 6, 29, 30, 31, 32 and 33 are amended herein.

Claims 3-7 and 31-36 are rejected under 35 U.S.C. 112, second paragraph. Though the thrust of the rejection is not entirely understood, Claims 3, 4, 5, 31, 32 and 33 have nonetheless been presently amended in an effort to readily obviate the present rejection. Particularly, Claims 3, 4, 5, 31, 32 and 33 now indicate that the mentioned spring forces act in response to compressive forces.

In view of the foregoing, it is respectfully submitted that the present 112 rejection has been overcome.

Reconsideration and withdrawal thereof is hereby respectfully requested.

Claims 1-7, 18, 20, 26 and 29-33 stand rejected under 35 U.S.C. 102(b) in view of Sessa. Claims 1-7, 12-14, 17-26 and 29-33 stand rejected under 35 U.S.C. 102(b) in view of Yung-Mao. Claims 1-6, 12-18 and 23-36 stand rejected under 35 U.S.C. 103 in view of Kramer and Wen.

Independent Claims 1 and 30 essentially indicate, *inter alia*, that a footwear insole comprises a base, a plurality of compressible protrusions protruding in a direction away from the base and for protruding away from a wearer's foot, and an arrangement for interconnecting the compressible protrusions, the interconnecting arrangement combining with the compressible protrusions to provide for strict compression of the compressible protrusions in response to a compressive force, whereby a column-buckling effect is avoided. Claims 1 and 30 are also amended herein to recite that the "interconnecting means" includes a compressible base. One advantage of such a feature, in combination with other features recited by either of Claims 1 or 30, is that a compound spring effect is facilitated that enhances wearer comfort and contributes admirably to the avoidance of a column-buckling effect.

As discussed previously, and as best understood, Sessa is directed to a midsole or outer sole that provides compression

via longitudinal spaced transverse ribs which run laterally. Spaces between the ribs apparently allow the ribs to deform sideways. This allowance of sideward deformation stands in stark contrast to an insole according to Claim 1, wherein column-buckling is avoided by way of an interconnection arrangement between protrusions, which provides a stabilizing effect. Furthermore, there is no teaching or suggestion in Sessa of a compressible base in a context such as that defined by either of Claims 1 and 30; accordingly, the advantages of a structure such as that recited by either of Claims 1 and 30 are not realized by Sessa.

As discussed previously, Yung-Mao, as best understood, is directed to a mid-sole that offers independent suspension with individual protruding elements. The protruding elements appear to be arranged so as to accommodate an observation window in the shoe. In stark contrast, the independent protruding elements of Yung-Mao do not in any way appear to be arranged or configured with the type of structural integrity that would readily avoid column-buckling as with an insole according to Claims 1 and 30. Furthermore, there is no teaching or suggestion in Sessa of a compressible base in a context such as that defined by either of Claims 1 and 30; accordingly, the advantages of a structure such as that recited by either of Claims 1 and 30 are not realized by Yung-Mao.

As discussed previously, Kramer, as best understood, also relates to a midsole. In this case, there are substantial deformation nubs that provide cushioning and air circulation and which are disposed towards, not away from, a wearer's foot. To fulfill the purposes of cushioning and air circulation, it is highly evident that the nubs must be easily compressible and significantly deformable. In this vein, the independent nubs of Kramer do not in any way appear to be arranged or configured with the type of structural integrity that would readily avoid column-buckling as with an insole according to Claims 1 and 30. Further, the fact that they are intended to be disposed towards, and not away from, a wearer's foot stands in stark contrast with an insole according to Claims 1 and 30. Furthermore, there is no teaching or suggestion in Kramer of a compressible base in a context such as that defined by either of Claims 1 and 30; accordingly, the advantages of a structure such as that recited by either of Claims 1 and 30 are not realized by Kramer.

Finally, Wen, as best understood, appears to be directed to a rubber pad construction with a number of resilient protrusions, primarily in the form of concentric sets of protrusions. There is no teaching or suggestion in Wen of a compressible base in a context such as that defined by either of Claims 1 and 30; accordingly, the advantages of a structure such as that recited by either of Claims 1 and 30 are not realized by Wen.

In view of the foregoing, it is respectfully submitted that Claims 1 and 30 fully distinguish over the applied art. By virtue of dependence from what is believed to be an allowable Claim 1, it is respectfully submitted that Claims 2-7, 12-29 and 31-36 are also allowable.

In view of the foregoing, it is respectfully submitted that the present 102(b) and 103 rejections have been overcome. Reconsideration and withdrawal thereof are hereby respectfully requested.

Claim 6 has been amended to recite consistent language with respect to the amendments made to Claim 1. Claim 29 has been amended, by way of a clarification, to change "insole" to "midsole".

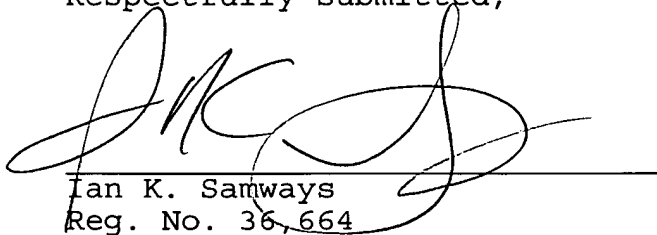
**References Made of Record but not Applied:**

The references made of record but not applied against the claims have been reviewed. Applicant acknowledges that the Office has deemed such references not sufficiently relevant to have been relied upon in the outstanding Office Action. However, to the extent that the Office may apply such references against the claims in the future, Applicant is prepared to fully respond thereto.

\* \* \*

In summary, Applicant respectfully submits that the instant application, including Claims 1-7 and 12-36, is presently in condition for allowance. Notice to the effect is hereby earnestly solicited.

Respectfully submitted,



Ian K. Samways  
Reg. No. 36,664

Dated: December 21, 2004

Reed Smith LLP  
P.O. Box 488  
Pittsburgh, PA 15230-0488  
(412) 288-4160

Agent for Applicant